

Assembly Bill No. 388

CHAPTER 100

An act to amend Section 538e of the Penal Code, relating to firefighting uniforms.

[Approved by Governor August 5, 2009. Filed with
Secretary of State August 6, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

AB 388, Miller. Firefighting uniforms.

Existing law provides that any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

This bill would require, subject to exceptions, that vendors of firefighting uniforms verify that a person purchasing a uniform identifying a firefighting agency or department is an employee or authorized member of the agency or department identified on the uniform, as specified. The bill would provide that violation of these provisions would be a misdemeanor, punishable by a fine of not more than \$1,000.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 538e of the Penal Code is amended to read:

538e. (a) Any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department or the Office of the State Fire Marshal, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, who willfully wears, exhibits, or uses the badge of a fire department or the Office of the State Fire Marshal with the intent of fraudulently impersonating an officer, or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, or which so resembles the authorized badge of an officer or member of a fire department, or a deputy state fire marshal as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of an officer or member of a fire department or a deputy state fire marshal, for the purpose of fraudulently impersonating an officer or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that he or she is an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of an officer, or member of a fire department or a deputy state fire marshal, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal as would deceive an ordinary reasonable person into believing that it is authorized for use by an officer or member of a fire department or a deputy state fire marshal, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000).

(d) Any person who, for the purpose of selling, leasing or otherwise disposing of merchandise, supplies or equipment used in fire prevention or suppression, falsely represents, in any manner whatsoever, to any other person that he or she is a fire marshal, fire inspector or member of a fire department, or that he or she has the approval, endorsement or authorization of any fire marshal, fire inspector or fire department, or member thereof, is guilty of a misdemeanor.

(e) (1) Vendors of uniforms shall verify that a person purchasing a uniform identifying a firefighting agency or department is an employee or authorized member of the agency or department identified on the uniform.

Examination of a valid photo identification card issued by a firefighting agency or department that designates the person as an employee or authorized member of the agency or department identified on the uniform shall be sufficient verification.

(2) If a person purchasing a uniform does not have a valid photo identification card issued by a firefighting agency or department, the person shall present an official letter of authorization from the firefighting agency or department designating that person as an employee or authorized member of the agency or department. The person shall also present a government issued photo identification card bearing the same name as listed in the letter of authorization issued by the agency or department.

(3) Any uniform vendor who sells a uniform identifying a firefighting agency or department without verifying that the purchaser is an employee or authorized member of the agency or department is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(4) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified firefighting agency or department.

(f) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code representing firefighters or a state or international organization to which it is affiliated.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.